UNITED
NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/304/Add.54
30 March 1998

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Cambodia

1. The Committee considered the second, third, fourth, fifth, sixth and seventh periodic reports of Cambodia (CERD/C/292/Add.2), at its 1266th and 1267th meetings, held on 16 and 17 March 1998, and adopted, at its 1273rd meeting, held on 20 March 1998, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission by Cambodia of its report after a long period during which the dialogue between the Committee and the State party had been disrupted, as well as the presence of its delegation. The Committee appreciates the opportunity to resume the dialogue with the State party. The Committee notes that the report follows the guidelines established by the Committee for the presentation of reports. The Committee regrets, however, that the report lacks concrete information on the practical implementation of the Convention, and that many questions remained unanswered. The Committee welcomes the statement by the delegation that it will transmit the questions of the Committee members to the State party.

B. Factors and difficulties impeding the implementation of the Convention

3. The Committee notes that Cambodia is facing many difficulties that have an impact on the implementation of the Convention. In this regard, the Committee refers in particular to more than 20 years of armed conflict; the

legacy of the genocide and other massive crimes perpetrated by the Khmer Rouge regime; the subsequent invasion of the country by a neighbouring State; the international isolation of Cambodia for many years; the insecurity which still exists in certain areas of the country; the chronic political instability including recent changes in Government; and the very difficult economic and social situation. These circumstances have created obstacles to the bringing to justice of the perpetrators of severe violations of human rights which, in a number of cases, have an ethnic dimension.

C. Positive aspects

4. The establishment within the National Assembly of a Commission on Human Rights and Receipt of Complaints, whose task is to identify human rights violations, receive complaints from victims and transmit them to the competent authorities for appropriate action, is noted with appreciation.

5. The reported cooperation with the Cambodian office of the Office of the High Commissioner for Human Rights and with non-governmental organizations is also welcomed.

C. Principal subjects of concern

6. Concern is expressed over the lack of independence of the judiciary, the absence of the Constitutional Council called for by the Constitution, as well as the impunity of perpetrators of human rights violations, violations which in some cases include summary executions and torture. This contributes to the serious undermining of efforts to establish the rule of law in Cambodia without which the full implementation of the Convention is not possible.

7. While taking note of article 61 of the Provisions relating to the Judiciary and Criminal Law and Procedure applicable in Cambodia during the Transitional Period, concern is expressed over the lack of legal provisions required in order to implement fully the State party's obligations under article 4 of the Convention, in particular article 4 (b) and (c).

8. Concern is also expressed with regard to the insufficient legal framework to implement fully the Convention, in particular article 2, paragraph 1 (d), and article 6.

9. While taking note of the 1993 Constitution which contains many provisions relating to the protection of human rights, the fact that those constitutional provisions refer only to the rights of Khmer citizens raises concern with regard to article 5 of the Convention. Such a reference contributes to the ideology of ethnic purity of the Khmer which may lead to racial discrimination, if not hatred, against minority groups, in particular the ethnic Vietnamese.

10. It is noted with concern that the 1996 Law on Nationality, stating that Khmer nationals are those one of whose parents is a Khmer national, makes it difficult for persons belonging to minority groups, in particular ethnic Vietnamese and indigenous people, to establish their citizenship.

11. The situation of the ethnic Vietnamese is a matter of concern, in particular with regard to article 5 of the Convention relating to equality of rights. Ethnic Vietnamese are subject to racist propaganda, mainly from the Khmer Rouge, which may incite hatred against them. The several massacres of ethnic Vietnamese, most of them attributed to the Khmer Rouge, have not been properly investigated. Alarm is also expressed over reports that the exploitation through prostitution of females of Vietnamese origin, in particular children, is growing. Concern is further expressed over reports of racist attitudes among much of the Khmer population against the Cambodian-born ethnic Vietnamese, who are still perceived as immigrants.

12. Concern is expressed over the limited educational facilities in the villages of ethnic Vietnamese, the lack of legislation authorizing the establishment of schools for them and the obstacles to their children learning the Khmer language.

13. While noting the existence of the Inter-Ministerial Committee and its draft National Policy on Highland Peoples' Development, concern is expressed over the situation of the indigenous peoples (also referred to as Highland Peoples, Khmer Loeu or Hill Tribes Peoples), and to their lack of legal status, as well as the insufficient legal framework to protect their rights, culture and traditional lands. The rights of indigenous peoples have been disregarded in many government decisions, in particular those relating to citizenship, logging concessions and concessions for industrial plantations. The lack of participation of the indigenous people in the management of natural resources and in other activities of concern to them is also a matter of concern.

D. Suggestions and recommendations

14. The Committee recommends that the State party take all appropriate steps, including legal measures, to ensure the independence of the judiciary and to establish the Constitutional Council, with a view to bringing an end to the impunity of perpetrators of racial discrimination. In this respect, the Committee emphasizes the need to investigate, prosecute and punish those found guilty of such crimes, and to establish confidence in the rule of law.

15. The Committee recommends that the laws be amended to more fully reflect the provisions of the Convention. Such a reform would constitute a clear reaffirmation by the Cambodian authorities that racial discrimination is unacceptable. In particular, the Committee is also of the view that the Law on Nationality should be revised.

16. The Committee recommends that the Code of Criminal Procedure and the Penal Code be enacted as soon as possible and should reflect the provisions of the Convention. The Committee suggests that the State party may wish to avail itself of the technical assistance programme of the Office of the High Commissioner for Human Rights.

17. The Committee reaffirms that the provisions of article 4 of the Convention are mandatory, as stated in its General Recommendation VII. The Committee stresses in this regard that the State party should take appropriate steps to fulfil all its obligations under this article and that in doing so, it take fully into account General Recommendation XV.

18. The Committee recommends that action be taken at the legislative, administrative and judicial levels to protect the right of everyone, including ethnic Vietnamese, to enjoy their rights under article 5 of the Convention, especially the right to security of person and protection by the State against violence or bodily harm; to public health and medical care and to education and training. It further recommends that comprehensive information on the implementation of the articles be provided in the next report.

19. The Committee recommends that the State party recognize the citizenship of the indigenous peoples, as well as their use of lands, forests and other natural resources, and their distinct and unique identity, culture and way of life. The Committee further recommends that the State party take steps to fully implement its General Recommendation XXIII which addresses the rights of indigenous peoples under the Convention. In particular, the State party should ensure that no decisions directly relating to the rights and interests of indigenous peoples are taken without their informed consent.

20. The Committee recommends that the State party ensure protection against any acts of racial discrimination through the competent courts, in accordance with article 6 of the Convention, by, inter alia, strengthening the court system, the independence of the judiciary and the confidence of the population therein. It further recommends that the right to seek just and adequate reparation for victims of racial discrimination be guaranteed in law and practice.

21. In connection with the implementation of article 7 of the Convention, the Committee recommends that all necessary measures be taken to provide training and education of law enforcement officers, civil servants, judges and lawyers, as well as teachers and students, at all levels of education, and the public at large, in the field of human rights and prevention of racial discrimination.

22. The Committee recommends that the State party take account, in preparing its next report, of these conclusions and recommendations.

23. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

24. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of such a declaration be considered.

25. The Committee invites the State party to submit its next report, due on 28 December 1998, in time for the fifty-fourth session of the Committee, and suggests that it be a comprehensive report. It should provide replies to the questions raised during the consideration of the previous report and address all the points raised in the present concluding observations.